

APPENDIX 2-C (i)

Copy of California State Water Resource Control Board Permit that Granted 9,227 acre-feet per year to San Juan Basin Authority for diversion and use from San Juan Basin



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights

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Gray Davis
Governor

OCT 30 2000

In Reply Refer
to:333:KDM:30123

Don Martinson
San Juan Basin Authority
27500 La Paz Road
Laguna Niguel, CA 92656-3489

Dear Mr. Martinson:

APPLICATION 30123 PERMIT **21074**

Your WATER RIGHT PERMIT is enclosed. The State Water Resources Control Board requires that you submit annual reports showing the progress you have made in the construction of your project and the use of water made under this permit that will qualify for licensing purposes. We will mail the forms to you when the reports are due.

The information on the availability of unappropriated water submitted by the San Juan Basin Authority (SJBA) on May 13 and November 23, 1999 documents that 8,000 are-feet per annum is presently available in the stream system, after taking existing diversions into consideration. San Juan Capistrano presently diverts 1,227 afa. Therefore, 9,227 afa is accounted for in the availability analysis and available for assignment to Applications 30123, 30337 and 30696. SJBA has an agreement not to interfere with specified uses under Application 30171 of the San Juan Golf, and existing use of 450 afa by San Juan Golf is also accounted for in the availability analysis.

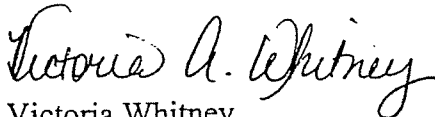
Please note that, with respect to other water rights attaching to this source, the priority of your right is identified by the filing date of your application. Therefore, in times of water shortage, those diverters with water rights senior to yours can take their water first. Additional limitations on your diversion and use of water are specified by the terms of this permit. Please read the terms and conditions of your permit carefully so that you are familiar with your responsibilities as an appropriator of water.

Because the availability of water in California is diminishing, it is in your best interest to complete the construction and use of the water on or before the date designated in your permit. An extension of time, to continue development of a project requires public noticing and reevaluation of then-current environmental considerations, and is becoming considerably more difficult to obtain.

After the project has been completed, an inspection will be made to determine the amount of water that has been placed to beneficial use within the terms of the permit. A license will then be issued confirming a right to that amount of water. Please keep sufficient records of your diversion and use of water to facilitate this process.

Please inform us of any changes in address or ownership.

Sincerely,



Victoria Whitney
Program Manager
Hearings and Special Projects

Enclosure

**STATUS REPORT
WATER RIGHTS APPLICATIONS
SAN JUAN BASIN**

The SWRCB processes water rights applications in the order of the application filing dates. The outstanding applications in the San Juan Basin are as follows:

<u>Applicant</u>	<u>Application Number</u>	<u>Annual Limit</u>	<u>Date Filed</u>
SJBA	30123	12,500 Acre-Feet	5-4-92
San Juan Golf	30171	450	5-19-92
SCWD	30337	1,300	3-24-94
City of SJC	30696	<u>3,325</u>	4-14-98
		Total 17,575 Acre-Feet	

The SWRCB granted Water Rights Permit No. 21074 to the SJBA on October 30, 2000 for an amount of 8,026 acre-feet/year. This amount can be increased to 10,702 acre-feet/year when it can be shown that there is that much unappropriated water available.

The terms of the Permit leaves it up to the SJBA to determine how to utilize the appropriated water. Reference is made in the Permit to the previous agreements between the member agencies.

The other outstanding permit applications are being processed in the order in which the applications were filed. The San Juan Golf Permit has been prepared and is ready to be granted. A 30-day notice for comments has been issued.

The next permit in line to be considered for approval is the SCWD application for 1,300 acre-feet/year, and then the next one in line would be the City of SJC application for 3,325 acre-feet/year.

It is not known at this time what action the SWRCB will take on the remaining two applications.

By California Coordinate System in Zone # 6	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
(A) Direct Diversion: (1) Well No. 41 North 492951 East 1580352	SE¼ of SE¼	32	7S	7W	SB
(2) Well No. 42 North 491396 East 1578329	NE ¼ of NW ¼	5	8S	7W	SB
(3) Well No. 43 North 490395 East 1576689	SW ¼ of NW ¼	5	8S	7W	SB
(4) Well No. 44 North 489649 East 1575517	NE ¼ of SE ¼	6	8S	7W	SB
(5) Well No. 45 North 486327 East 1571321	NW ¼ of NW ¼	7	8S	7W	SB

(6) Well No. 46 North 485234 East 1570059	SE ¼ of NE ¼	12	8S	8W	SB
(7) Well No. 47 North 478815 East 1563940	NE ¼ of SE ¼	14	8S	8W	SB
(8) Well No. 48 North 480696 East 1564240	NE ¼ of NE ¼	14	8S	8W	SB
(9) Well No. 49 North 482297 East 1564900	SE ¼ of SE ¼	11	8S	8W	SB
(10) Well No. 50 North 484312 East 1564800	NE ¼ of SE ¼	11	8S	8W	SB
(11) Well No. 57 North 476524 East 1563325	NW ¼ of NE ¼	23	8S	8W	SB
(B) Direct Diversion: (12) Well No. 51 North 485952 East 1565995	NW ¼ of NW ¼	12	8S	8W	SB
(13) Well No. 52 North 487028 East 1567831	NE ¼ of NW ¼	12	8S	8W	SB
(14) Well No. 53 North 487288 East 1569927	NE ¼ of NE ¼	12	8S	8W	SB
(15) Well No. 54 North 491880 East 1566980	NE ¼ of NW ¼	1	8S	8W	SB
(16) Well No. 55 North 494150 East 1566514	NW ¼ of SW ¼	36	7S	8W	SB
(17) Well No. 56 North 496439 East 1567936	SE ¼ of NW ¼	36	7S	8W	SB

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Municipal	Within the boundaries of Santa Margarita, Moulton Niguel, Capistrano Valley and Trabuco Canyon Water Districts					

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 17.3 cubic feet per second to be diverted from January 1 to December 31 of each year. Until further order of the Chief, Division of Water Rights, the maximum amount diverted under this

permit shall not exceed 8,026 acre-feet per annum (afa). This amount can be increased by a maximum of 2,676 afa, for a total diversion of 10,702 afa, upon showing by the permittee of the availability of unappropriated water and approval of the Chief, Division of Water Rights.

(0000005A)

6. Complete application of the water to the authorized use shall be made by December 31, 2010.

(0000009)

7. Allocation of the available water resources under this permit and any permits issued pursuant to Application 30337 of South Coast Water District and 30696 of Capistrano Valley Water District, et al. are governed by private agreements among the respective parties dated November 21, 1995 and March 1, 1998, and by their joint letter dated March 13, 1998

If the agreements are modified in a manner which requires revisions to the allocation of water, the permittee shall provide to the Chief of the Division of Water Rights a revised allocation schedule and the permittee shall operate to the revised schedule. If the agreements are terminated the Chief of the Division of Water Rights shall determine the water allocation schedule needed to protect prior rights and public trust resources, and the permittee shall operate to this schedule.

(0000024)

8. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue.

(0000025)

9. Permittee shall consult with the Division of Water Rights and, within one year from the date of this permit, shall submit to the State Water Resources Control Board its Urban Water Management Plan as prepared and adopted in conformance with Section 10610, et seq. of the California Water Code, supplemented by any additional information that may be required by the Board.

Features of the water conservation plan may include but not necessarily be limited to

(1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein

(0000029A)

10. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, permittee shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and

sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.

(0000030)

11. The permittee shall not operate the project in a manner so as to cause injury to the reasonable and beneficial uses of water recognized for San Juan Creek watershed in the Water Quality Control Plan for the San Diego Basin, including significant injury to the quality of water necessary for senior reasonable and beneficial uses at the San Juan Golf Property.

(0000999)

12. This permit is specifically subject to the prior riparian right of San Juan Golf, Inc. and Charles I. Vermeulen, or their successors, to the extent that any such right is determined to be valid.

(000T001)

13. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, San Diego Region, or by the State Water Resources Control Board.

(0000100)

14. Cumulative extractions by the permittee, senior right holders, and rights governed by private agreements with the permittee (see condition 7) shall not exceed recharge from return flows and precipitation. This condition is satisfied when groundwater storage is not less than one-half of the storage capacity in the alluvial groundwater basin.

(0360900)

15. Prior to diversion of water under this permit, permittee shall (1) install devices to collect information needed to calculate the quantities of water in underground storage and (2) install devices to measure the quantities of water taken from underground storage and placed to beneficial use. All measuring devices shall be approved by the Chief, Division of Water Rights prior to diversion of water under this permit. All measuring devices shall be properly maintained.

(0080900)

(0490900)

16. Prior to diversion of water under this permit, permittee shall prepare and submit to the Chief, Division of Water Rights for approval and modification, if necessary, an annual compliance monitoring plan. Any amendments to the plan shall also be submitted to the Division Chief for approval and modification, if necessary, prior to implementation.

The monitoring plan shall identify (a) the measures the permittee will take to collect data regarding water levels in the San Juan Basin (b) document how the permittee will comply with the requirement that cumulative extractions do not exceed recharge from return flows and precipitation, and (c) provide adequate information to document that the permittee will not operate the project in a manner that causes adverse impacts to senior water rights (including the riparian rights listed in condition 12) and water rights governed by private agreement (identified in condition 7), and their successors in interest.

The permittee shall identify the steps that will be taken to limit diversions at each of the authorized points of diversion to ensure that (a) diversions do not interfere with prior rights, (b) cumulative diversions do not exceed basin recharge rates, and (c) diversions comply with all permit terms and conditions. Upon approval of the plan by the Chief, Division of Water Rights, the permittee shall implement the plan.

An annual compliance report shall be submitted with the Progress Report by Permittee.

(0490700)

17. Prior to initiating any diversion of water under this permit, the permittee shall install monitoring well(s) located downstream of the points of diversion for the purpose of monitoring both total dissolved solids (TDS) and chloride levels. The monitoring well(s) shall be located on San Juan Creek downstream of the confluence of San Juan Creek and Arroyo Trabuco. The permittee shall obtain measurements of the TDS and chloride levels at the monitoring well(s) and shall develop a monitoring program that identifies the sampling frequency, monitoring protocol, and statistical analysis needed to document TDS and chloride levels relative to the water quality objectives in the Water Quality Control Plan for the San Diego Basin (Basin Plan). The water quality monitoring program shall be submitted to the Chief, Division of Water Rights for approval and modification, if necessary, within six months of issuance of this permit. No water may be diverted until the monitoring program is approved.

Extractions shall not cause groundwater to exceed the Basin Plan objectives. In the event the Basin Plan objectives are already exceeded, the extraction shall not cause further degradation. Because the levels of TDS and chloride may vary with time, the constituent levels in the monitoring wells shall be statistically compared with historic levels or monitoring wells unaffected by the extractions to determine if degradation has occurred.

A record of the TDS and chloride level measurements taken in accordance with the water quality monitoring program requirements shall be submitted annually with the Progress Report by Permittee, together with documentation that the permittee discontinued use of any wells not meeting the requirements of this permit condition. The permittee shall provide the well names, well locations and dates of non-use for any wells not in use due to this permit condition.

(0110900)

(0360900)

(0490700)

18. Prior to the commencement of any grading for the project, the permittee shall complete the following: -f

A survey for the Least Bell's Vireo and Southwestern Willow Flycatcher shall be conducted in suitable habitat between April 15 and July 31 by a qualified biologist using protocols acceptable to the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (DFG). Surveys for other sensitive species (such as Willow Flycatcher, Yellow-breasted Chat, Yellow Warbler and Blue Grosbeak) shall be conducted concurrently using the same criteria. Project grading and construction activities, if proposed in the vicinity of areas known to be occupied by Least Bell's Vireo, Southwestern Willow Flycatcher and California Gnatcatcher, shall not occur during the breeding season for said sensitive species (February through July).

Focused surveys for native fish (Arroyo Chub, Partially Armored Threespine Stickleback, California Killifish and Steelhead) shall be conducted by a qualified biologist at each infrastructure location that could potentially affect pools or runs of the San Juan and Trabuco Creeks. Such surveys shall be conducted using protocols acceptable to the USFWS and DFG.

Focused surveys for the Arroyo Toad, Western Spadefoot, and Southwestern Pond Turtle shall be conducted in suitable habitat by a qualified biologist using protocols acceptable to the USFWS and DFG.

A survey for sensitive plant species (Southwestern Spiny Rush and Coulter's Matilija Poppy) shall be conducted by a qualified biologist using protocols acceptable to the USFWS and DFG.

A wetland delineation shall be conducted at each infrastructure location chosen for the project, as well as any areas which may be affected by project construction. Such wetland delineation(s) shall be conducted by a qualified biologist pursuant to the criteria established by the Army Corps of Engineers and DFG.

The permittee shall prepare, or cause to be prepared, a report that describes the findings of all botanical, avian, fishery, amphibian, reptile, and wetland delineation surveys that are required prior to the commencement of any grading for the project or construction related activities related to project infrastructure. The report should include methods employed to avoid, minimize, restore, or compensate for species or wetlands determined to be effected by project related impacts. A copy of the report shall be filed with the Chief, Division of Water Rights.

(0390500)

(0600500)

19. Prior to grading and construction related to project infrastructure, the permittee shall ensure that downstream sedimentation in the area of San Juan Creek shall not occur during the late winter and spring breeding seasons which may affect native fish populations, and native amphibian egg masses and larva. The permittee shall implement standard construction procedures in compliance with local jurisdictions for control of sedimentation during grading and construction. Such procedures shall be determined prior to grading and construction for each infrastructure site.

(0400500)

20. Prior to the final selection of project infrastructure sites in sensitive locations by the permittee, the permittee shall consult with a qualified consulting biologist and biologist from the DFG to determine acceptable sitings for well, pipeline and access road facilities. Such siting shall be determined by the permittee, the qualified biologist, and the biologist from DFG by field inspections of the proposed sites which are located in sensitive areas.

(0400500)

21. Prior to construction of project infrastructure, the permittee, in coordination with the consulting biologist and DFG, shall remove species of non-native vegetation from the banks of streams where project facilities are to be located.

(0400500)

22. Prior to the commencement of any phase of the project, a total of 3-5 piezometers shall be installed by the permittee in those areas directed by DFG in order to monitor soil moisture within the riparian zone for Phase I and II of the project. If moisture falls below natural levels for

sustaining vegetation, pumping in that area will cease until moisture levels are adequately restored.

(0400500)

23. Prior to the commencement of any pumping in an area where important native vegetation and/or surface water resources could be affected, the permittee shall ensure that a mitigation monitoring program is established to observe, track and control the effects of pumping on important native vegetation. The frequency of monitoring shall be determined by recommendations of the consulting biologist. The mitigation monitoring program shall become a part of the 1601 agreement between the permittee and DFG, and periodic monitoring reports (as set forth below) shall be forwarded to DFG.

This mitigation monitoring program shall be reviewed by the consulting biologist every three (3) months from the date of commencement of the project for one year, and annually thereafter. Such review will determine if continued vegetation and/or surface water resource monitoring is necessary, or whether the frequency of review requires adjustment. Any revisions to the mitigation monitoring program by the permittee or consulting biologist shall be coordinated with DFG.

Prior to commencement of pumping for Phase II of the project, a mitigation monitoring program shall be developed to observe, track and control the effects of Phase II of the project by utilizing the same terms, parties and review as provided in the mitigation monitoring program for Phase I of the project.

If at any time during the monitoring of Phase I or Phase II of the project it is determined by the consulting biologist that areas of important native vegetation are under stress as a result of pumping, the consulting biologist shall inform the permittee and shall cause the cessation of pumping in the affected areas until the stress has been eliminated or reduced to a level acceptable to the consulting biologist. Pumping may be reinstated in the affected area(s) upon consultation with the biologist. Provisions for surface water release, if necessary, to sustain or restore vegetation affected by pumping shall be incorporated into the final design.

(0400500)

24. Prior to any grading associated with the project, a Society of Professional Archaeologists (SOPA) certified archaeologist shall be retained by the permittee to survey those areas not previously surveyed for archaeological remains. Following the survey, a report shall be prepared and submitted to the Information Center at UCLA for their records. If important prehistoric or historic resources are encountered, then evaluative testing and/or other appropriate archaeological investigations shall be conducted before grading begins.

(0380500)

25. A SOPA certified archaeologist shall be retained by the permittee to attend the pre-grade meeting or meetings, prepare a monitoring program and to be present during all grading activities for the proposed project. During the grading activities, the archaeologist shall conduct monitoring to observe and retrieve any buried artifacts that may be uncovered. The archaeological monitor shall have the authority to temporarily divert or suspend grading and/or construction activities in the vicinity of the find until the significance of any previously unknown cultural resources has been evaluated. If the resources are determined to be significant any mitigation measures deemed appropriate by a qualified archaeologist, in consultation with the State Office of Historic

Preservation, must be completed prior to resuming the grading and/or construction activities in the vicinity of the find. This includes disposition of any recovered resources and/or artifacts. Such resources and/or artifacts, after analysis and lab testing, shall be offered to the County of Orange, or designee (such as a public museum or public university), on a first refusal basis.

(0380500)

26. ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- (A) Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.
- (B) The amount authorized for appropriation may be reduced in the license if investigation warrants.
- (C) Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.
- (D) Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.
- (E) Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

- (F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to

Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: October 30, 2000

STATE WATER RESOURCES CONTROL BOARD

**ORIGINAL SIGNED
BY HARRY M. SCHUELLER**

Chief, Division of Water Rights